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PTO/SB/21 (08-00)

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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Applicati n Number	09/743,690
	Filing Date	January 12, 2001
	First Nam d Inv ntor	Christ ller
	Group Art Unit	1638
	Examiner Name	Anne R. Kubelik
Total Number of Pages in This Submission	Attorney Docket Number	020829-000100US

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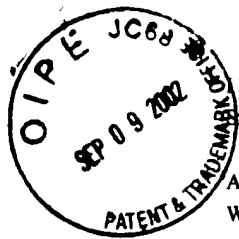
**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm and Individual name	Townsend and Townsend and Crew LLP Carol A. Fang	Reg. No. 48,631
Signature		
Date	August 30, 2002	

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On August 30, 2002

TOWNSEND and TOWNSEND and CREW LLP

By: Patricia Amers

PATENT  
Attorney Docket No.: 020829-000100US  
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

CHRISTELLER et al.

Application No.: 09/743,690

Filed: January 12, 2001

For: CHIMERIC POLYPEPTIDES  
ALLOWING EXPRESSION OF PLANT-  
NOXIOUS PROTEINS

Examiner: Anne R. Kubelik

Art Unit: 1638

AMENDMENT

#13  
9/16/02

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

In response to the Office Action mailed August 9, 2002, Applicants submit the following response.

**I. Restriction of Claims**

Applicants hereby elect with traverse the claims of Group III (claims 16-20, 22-23, 31, and 53-54), drawn to nucleic acids encoding a chimeric protein comprising a vacuolar targeting sequence and a plant noxious pest control protein, host cells and plants transformed with the nucleic acids, methods of using the nucleic acids to produce a pest resistant plant, and methods of making the chimeric protein.

In conjunction with the election of the claims of Group III, Applicants hereby select SEQ ID NO:6 as a nucleotide sequence and SEQ ID NO:7 as an amino acid sequence for the Group.

In making the restriction requirement, the Examiner alleges that Groups 1-VI do not relate to a single general inventive concept because they do not constitute an advance over the prior art and further alleges that claim 1 and other claims are not novel in view of Raikhel (U.S. Patent No. 5,360,726) or Boller *et al.* (U.S. Patent No. 6,054,637). Applicants respectfully disagree and reserve the right to pursue the argument at a later time.

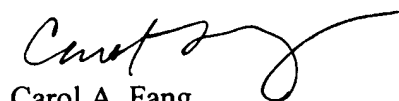
In view of the above, Applicants respectfully request withdrawal of the restriction requirement.

## **II. Election of Species**

Applicants elect a species wherein the plant noxious pest control protein is avidin. Claims 16-20, 22-23, 31, and 53-54 read on the elected species. Applicants request that upon allowance of the claims, the Examiner consider rejoinder of withdrawn species if they are embraced by the allowed generic claims pursuant to MPEP § 809.03(c)(B).

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (415) 576-0200.

Respectfully submitted,



Carol A. Fang  
Reg. No. 48,631

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